

HOUSE BILL 803  
EMERGENCY BILL

Unofficial Copy  
C3

2003 Regular Session  
(31r2004)

*ENROLLED BILL*  
*-- Health and Government Operations/Finance --*

Introduced by ~~Delegate Hurson~~ Delegates Hurson, Benson, Bromwell, Costa, Donoghue, Elliott, Goldwater, Hammen, Haynes, Hubbard, Kach, Mandel, McDonough, Morhaim, Murray, Nathan-Pulliam, Oaks, Pendergrass, Redmer, Rosenberg, Rudolph, Smigiel, V. Turner, and Weldon

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

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Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this \_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_\_ M.

\_\_\_\_\_  
Speaker.

CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Maryland Health Insurance Plan and Senior Prescription Drug Program -**  
3 **Modifications and Clarifications**

4 FOR the purpose of altering the responsibilities of the Health Services Cost Review  
5 Commission with respect to funding for the Maryland Health Insurance Plan;  
6 clarifying the fiscal year used in calculating the funding for the Plan;  
7 authorizing the Board of Directors for the Maryland Health Insurance Plan to  
8 allow the Plan administrator to use premiums collected from enrollees to pay  
9 certain claims; requiring the administrator to deposit premiums in a certain  
10 account and to keep certain records; requiring the administrator, under certain  
11 circumstances, to deposit a certain amount in the Maryland Health Insurance  
12 Plan Fund; clarifying a certain limitation on the amount the administrator must  
13 deposit in the Fund; authorizing the Board to make a certain adjustment under

1 certain circumstances; authorizing premiums collected for the Senior  
2 Prescription Drug Program to be deposited into a certain account; making this  
3 Act an emergency measure; and generally relating to the Maryland Health  
4 Insurance Plan and Senior Prescription Drug Program.

5 BY repealing and reenacting, with amendments,  
6 Article - Health - General  
7 Section 19-219(d)  
8 Annotated Code of Maryland  
9 (2000 Replacement Volume and 2002 Supplement)

10 BY repealing and reenacting, with amendments,  
11 Article - Insurance  
12 Section 14-504, 14-505, and 14-513  
13 Annotated Code of Maryland  
14 (2002 Replacement Volume and 2002 Supplement)

15 BY repealing and reenacting, with amendments,  
16 Chapter 153 of the Acts of the General Assembly of 2002  
17 Section 10

18 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
19 MARYLAND, That the Laws of Maryland read as follows:

20 **Article - Health - General**

21 19-219.

22 (d) (1) In this subsection, "base hospital rate" means the aggregate value to  
23 participating commercial health insurance carriers of the substantial, available, and  
24 affordable coverage purchaser differential as determined by the Commission for the  
25 calendar year 2002.

26 (2) The Commission, in accordance with this subsection, shall  
27 [determine and collect] CALCULATE THE AMOUNT OF funds necessary to operate and  
28 administer the Maryland Health Insurance Plan established under Title 14, Subtitle  
29 5 of the Insurance Article.

30 (3) (i) The Commission shall determine the percentage of total net  
31 patient revenue received in calendar year 2002 by all hospitals for which the  
32 Commission approved hospital rates that is represented by the base hospital rate.

33 (ii) The percentage under subparagraph (i) of this paragraph shall  
34 be determined by dividing the base hospital rate by the total net patient revenue  
35 received in calendar year 2002 by all hospitals for which the Commission approved  
36 hospital rates.

37 (4) On or before May 1 of each year, the Commission shall:

1 (i) Determine the amount of funding to allocate to the Maryland  
2 Health Insurance Plan by multiplying the percentage determined under paragraph  
3 (3) of this subsection by the value of the total net patient revenues received in the  
4 immediately preceding STATE fiscal year by all hospitals for which rates were  
5 approved by the Commission; and

6 (ii) Determine the share of total funding owed by each hospital for  
7 which rates have been approved by the Commission proportionate to the percentage  
8 of the base hospital rate attributable to each hospital.

9 (5) Each hospital shall remit monthly one-twelfth of the amount  
10 determined under paragraph (4)(ii) of this subsection to the Maryland Health  
11 Insurance Plan Fund.

## 12 Article - Insurance

13 14-504.

14 (a) (1) There is a Maryland Health Insurance Plan Fund.

15 (2) The Fund is a special nonlapsing fund that is not subject to § 7-302 of  
16 the State Finance and Procurement Article.

17 (3) The Treasurer shall separately hold and the Comptroller shall  
18 account for the Fund.

19 (4) The Fund shall be invested and reinvested at the direction of the  
20 Board in a manner that is consistent with the requirements of Title 5, Subtitle 6 of  
21 this article.

22 (5) Any investment earnings shall be retained to the credit of the Fund.

23 (6) On an annual basis, the Fund shall be subject to an independent  
24 actuarial review setting forth an opinion relating to reserves and related actuarial  
25 items held in support of policies and contracts.

26 (7) The Fund shall be used only to provide funding for the purposes  
27 authorized under this subtitle.

28 (b) The Fund shall consist of:

29 (1) premiums for coverage that the Plan issues;

30 (2) EXCEPT AS PROVIDED IN § 14-513(A) OF THIS SUBTITLE, premiums  
31 paid by enrollees of the Senior Prescription Drug Program;

32 (3) money collected in accordance with § 19-219 of the Health - General  
33 Article;

1 (4) money deposited by a carrier in accordance with § 14-513 of this  
2 subtitle;

3 (5) income from investments that the Board makes or authorizes on  
4 behalf of the Fund;

5 (6) interest on deposits or investments of money from the Fund; and

6 (7) money collected by the Board as a result of legal or other actions  
7 taken by the Board on behalf of the Fund.

8 (C) (1) THE BOARD MAY ALLOW THE ADMINISTRATOR TO USE PREMIUMS  
9 COLLECTED BY THE ADMINISTRATOR FROM PLAN ENROLLEES TO PAY CLAIMS FOR  
10 PLAN ENROLLEES.

11 (2) THE ADMINISTRATOR:

12 (I) SHALL DEPOSIT ALL PREMIUMS FOR PLAN ENROLLEES IN A  
13 SEPARATE ACCOUNT, TITLED IN THE NAME OF THE STATE OF MARYLAND, FOR THE  
14 MARYLAND HEALTH INSURANCE PLAN; AND

15 (II) MAY USE MONEY IN THE ACCOUNT ONLY TO PAY CLAIMS FOR  
16 PLAN ENROLLEES.

17 (3) THE ADMINISTRATOR SHALL KEEP COMPLETE AND ACCURATE  
18 RECORDS OF ALL TRANSACTIONS FOR THE SEPARATE ACCOUNT.

19 (4) BY THE 15TH OF THE FOLLOWING MONTH, IF MONTHLY PREMIUMS  
20 COLLECTED BY THE ADMINISTRATOR EXCEED MONTHLY CLAIMS RECEIVED, THE  
21 ADMINISTRATOR SHALL DEPOSIT THE REMAINING BALANCE, INCLUDING INTEREST,  
22 FOR THAT MONTH IN THE FUND.

23 [(c)] (D) The Board shall take steps necessary to ensure that Plan enrollment  
24 does not exceed the number of enrollees the Plan has the financial capacity to insure.

25 [(d)] (E) (1) In addition to the operation and administration of the Plan, the  
26 Fund shall be used for the operation and administration of the Senior Prescription  
27 Drug Program established under Part II of this subtitle.

28 (2) The Board shall maintain separate accounts within the Fund for the  
29 Senior Prescription Drug Program and the Maryland Health Insurance Plan.

30 (3) Accounts within the Fund shall contain those moneys that are  
31 intended to support the operation of the Program for which the account is designated.

32 [(e)] (F) A debt or obligation of the Plan is not a debt of the State or a pledge  
33 of credit of the State.

1 14-505.

2 (a) (1) The Board shall establish a standard benefit package to be offered by  
3 the Plan.

4 (2) The Board may exclude from the benefit package:

5 (i) a health care service, benefit, coverage, or reimbursement for  
6 covered health care services that is required under this article or the Health -  
7 General Article to be provided or offered in a health benefit plan that is issued or  
8 delivered in the State by a carrier; or

9 (ii) reimbursement required by statute, by a health benefit plan for  
10 a service when that service is performed by a health care provider who is licensed  
11 under the Health Occupations Article and whose scope of practice includes that  
12 service.

13 (b) (1) The Board shall establish a premium rate for Plan coverage subject to  
14 review and approval by the Commissioner.

15 (2) The premium rate may vary only on the basis of family composition.

16 (3) IF THE BOARD DETERMINES THAT A STANDARD RISK RATE WOULD  
17 CREATE MARKET DISLOCATION, THE BOARD MAY ADJUST THE PREMIUM RATE  
18 BASED ON MEMBER AGE.

19 (c) (1) The Board shall determine a standard risk rate by considering the  
20 premium rates charged by carriers in the State for coverage comparable to that of the  
21 Plan.

22 (2) The premium rate for Plan coverage:

23 (i) may not be less than 110% of the standard risk rate established  
24 under paragraph (1) of this subsection; and

25 (ii) may not exceed 200% of the standard risk rate.

26 (3) Premium rates shall be reasonably calculated to encourage  
27 enrollment in the Plan.

28 (d) Losses incurred by the Plan shall be subsidized by the Fund.

29 14-513.

30 (a) [Premiums] AS DETERMINED BY THE BOARD, PREMIUMS collected for the  
31 Program shall be deposited:

32 (1) to a segregated account in the Fund established under § 14-504 of  
33 this subtitle; OR

1 (2) TO A SEPARATE ACCOUNT FOR THE PROGRAM ESTABLISHED BY THE  
2 CARRIER THAT ADMINISTERS THE PROGRAM.

3 (b) In addition to premium income, the segregated account shall include:

4 (1) interest and investment income attributable to Program funds; and

5 (2) money deposited to the account by the carrier that administers the  
6 Program in accordance with subsection (c) of this section.

7 (c) (1) On or before April 1, 2003 and quarterly thereafter, the Program  
8 Administrator shall deposit to the Fund under § 14-504 of this subtitle[:

9 (i) premiums collected; and

10 (ii)] the amount, in excess of premiums collected, that is necessary  
11 to operate and administer the Program for the following quarter.

12 (2) The amount deposited shall be determined by the Board based on  
13 enrollment, expenditures, and revenue for the previous year.

14 (3) The amount required by the Board under paragraph (2) of this  
15 subsection may not exceed the value of the Program Administrator's annual premium  
16 tax exemption under § 6-101(b) of this article FOR THE PREVIOUS CALENDAR YEAR.

17 (4) Beginning July 1 of each year and quarterly thereafter, the Board  
18 shall reimburse the Administrator for prescription drug claims and administrative  
19 expenses incurred on behalf of the Program.

20 (5) Any rebates or other discounts obtained by the Program  
21 Administrator as a result of prescription drug purchases on behalf of Program  
22 enrollees from a pharmaceutical benefit manager or pharmaceutical manufacturer  
23 shall inure to the benefit of the Program and be deposited to the Fund.

24 **Chapter 153 of the Acts of 2002**

25 SECTION 10. AND BE IT FURTHER ENACTED, That:

26 (1) The Health Services Cost Review Commission shall approve the  
27 substantial, available, and affordable coverage (SAAC) purchaser differential through  
28 March 31, 2003 for each carrier participating in the SAAC program, as long as the  
29 carrier complies with the laws and regulations governing the SAAC program.

30 (2) For the final quarter of fiscal year 2003, the Health Services Cost Review  
31 Commission:

32 (i) may not allow any carrier to receive a SAAC purchaser differential;

33 (ii) may not adjust hospital rates to reflect the elimination of any SAAC  
34 purchaser differential; AND

1 (III) SHALL DETERMINE THE AMOUNT EQUAL TO THE VALUE OF THE  
2 SAAC PURCHASER DIFFERENTIAL FOR EACH HOSPITAL FOR WHICH RATES HAVE  
3 BEEN APPROVED BY THE COMMISSION.

4 (3) FOR THE FINAL QUARTER OF FISCAL YEAR 2003, THE MARYLAND HEALTH  
5 INSURANCE PLAN:

6 [(iii)] (I) shall collect from each hospital for which rates are established  
7 by the Commission an amount equal to the value of the SAAC purchaser differential  
8 AS DETERMINED UNDER ITEM (2)(III) OF THIS SECTION and deposit that AMOUNT  
9 [money, minus the losses and fees paid to SAAC carriers for the quarter,] into the  
10 Maryland Health Insurance Plan Fund;

11 [(iv)] (II) shall establish a methodology for reimbursing each carrier for  
12 losses incurred within the quarter that are attributable to SAAC enrollees; and

13 [(v)] (III) shall reimburse each carrier for losses incurred within the  
14 quarter and pay each carrier an administration fee equal to 20% of premiums  
15 collected for the quarter.

16 [(3)] (4) For calendar year 2002:

17 (i) a carrier that participates in the SAAC program through a health  
18 maintenance organization product may not be required to hold an open enrollment  
19 period for eligible individuals; and

20 (ii) a carrier that participates in the SAAC program through a preferred  
21 provider organization product shall hold one 30-day open enrollment period for  
22 eligible individuals in June 2002 and one 30-day open enrollment period for eligible  
23 individuals in December 2002.

24 SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency  
25 measure, is necessary for the immediate preservation of the public health or safety,  
26 has been passed by a ye and nay vote supported by three-fifths of all the members  
27 elected to each of the two Houses of the General Assembly, and shall take effect from  
28 the date it is enacted.